



## **PLANNING & ZONING DEPARTMENT**

### **Before the Planning & Zoning Commission Meeting of JUNE 14, 2016 Public Hearing No. 2**

**Analyst:** Robert Hobbs

**Applicant(s)/Engineer(s):**

Jeff & Shelly Henderson as Applicants

**File(s):** CUP 00033-16

**Requested Action Approval(s) and Location:**

**1. A Conditional Use Permit (CUP) approval decision on a request:**

To operate an "Auto Repair Business"...(hereinafter, alternatively, the "Project")

**Pertaining to:**

Property [land] located in a Community Business (BC) Zone and addressed as 2302 W. Karcher Road (a .896 acre parcel in Section 08, T3N, R2W, SW ¼ of the Midway Subdivision, Tax 1-B-1 in Block 25 less Road and the former Karcher Ranch Market property) -- hereinafter the "Property"...

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## **CONDITIONAL USE CONCLUSIONS OF LAW**

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Relevant **Conclusions of Law** for a/this Conditional Use Permit hearing item:

- A. That the location, size, design and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density, to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.**
  
- B. That the location, design and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.**

**C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

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## INTRODUCTION

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Cities and counties in this country have for the past 100 or so years adopted and then administered zoning laws. Such laws, colloquially termed “codes”, are designed, in part, to help ensure orderly community population and structural growth, predictability of development rules, the upholding of property values, protection of the public’s health, safety and welfare, fair regulation of land use, and so forth. The level of detail of any such code, and, its aptitude in balancing the vested rights of individual property owners with those of their neighbors, varies from jurisdiction to jurisdiction.

Idaho, in the 1970s, adopted a set of laws to generally govern land use and development in the state. Said laws are collectively titled the “Local Land Use Planning Act” (I.C. 67-6501 et al). At the time of adoption, it was provided that cities and counties could choose to enact their own set of zoning laws and empower planning and/or zoning commissions to make certain land use related decisions. Nampa adopted a zoning ordinance many years ago and both renewed and revamped its ordinance in 1971. Since that time, varying amendments to the same have been passed into law. Commensurate with other zoning ordinances, Nampa identifies a number of possible land use types and establishes the permissibility of those uses within given land use districts (zones) that overlay the community. Uses thus may be deemed as permitted/allowed by right, not allowed/prohibited, or, allowed upon issuance of a “Conditional Use Permit” (N.C.C. § 10-25).

Conditional Use Permits (CUPs) are a common implement used by zoning codes and authorities to facilitate review of a given (or proposed) land use in a proposed location to ascertain the use’s perceived [future] compatibility with neighboring land uses as considered from a variety of viewpoints and based upon a number of determined facts. Conditional Use Permits commonly invoke some form of formal review by a city or county, often requiring at least one public hearing. Nampa requires a public hearing to review those land uses that require Conditional Use approval (N.C.C. § 10-25-14).

A hearing allows vetting of any concerns of the public, the governing jurisdiction’s departments, or that of outside agencies. Such a hearing is used in part to discover land use related impacts that may stem from the proposed use and, if necessary, to levy any reasonable mitigations perceived necessary to keep the proposed use and the environment around in harmonious co-existence.

The current application seeks to obtain authorization to convert a retail food market location into one which will serve an auto repair shop’s needs. It is our understanding that the front, tent-like portion of the market would be removed and replaced with a small office and that a small parking lot area would be provided for the same. Staff has conveyed to the Applicants’ design representative that a bullpen for autos, if proposed, could be potentially set on the west or at the back of the building (space permitting) but would require site/sight screening and proper distancing from the streets abutting the Property. Also, new landscaping along Karcher Road will be required in conjunction with any Building Permit issued for the conversion, as well as requisite paving, striping and design review of the new minor front façade addition.

Given that Nampa's zoning code specifies that "auto repair" requires a Conditional Use Permit in the Community Business (BC) zone, and, that "auto body [repair] and paint shop" also requires a Conditional Use Permit, the "after" floor plan drawing provided by the Applicants' floor plan that shows a paint booth is not of real concern to Staff. We presume that as part of any Building Permit sign-off, the Fire Department (and Building) will have to approve of the booth's design and construction.

The main question often times associated with CUPs is that of compatibility – that of a proposed use with its possible future neighbors, and vice versa. Scoping the area around the Property, we observe in a close radius around the Property, the presence of, to the west, an open parcel segment, then a car wash and then a Maverik; to the east, a mobile home park and then Wells Fargo Bank, to the south the Gateway Apartments and to the north storage-unit buildings and industrial-style single and multi-tenant buildings (see attached aerial photo with callouts).

Staff has already communicated with the Applicants to review building improvements that will have to be made in the event the Conditional Use Permit (CUP) is approved and the Property and market re-purposed for use by an auto repair facility. The Applicants have caused their purchase agreement for the property to be conditioned on the approval of their CUP application. The Commission has received all of the information (to include department, agency or citizen correspondence) that we had available by the time this report was sent to print (12 noon, June 08, 2016).

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## ABBREVIATED FINDINGS OF FACT

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1. The Property is commercially zoned (BC); and,
2. The area within which the Property lies has been pre-established as "Commercial" by the City's adopted Comprehensive Plan (as approved during time of Property annexation/zoning assignment) and slated for commercial development, or, where such is anticipated to be developed; and,
3. Automobile repair uses (including those providing body or paint work) require CUP approval to allow the same to operate in a BC Zone; and,
4. A complete CUP application for an automobile repair business/garage has been submitted to the City by the Applicants and reviewed by City; and,
5. Limited public/agency/City department comments have been received regarding this matter. Such correspondence as received from agencies or the citizenry regarding this application package [received by noon June 08, 2016] is hereafter attached to this report. Staff has not received commentary from any surrounding property owners or neighbors (either supporting or opposing this request). Synopsis of principal comments from agencies or departments that responded to this application and the public hearing notice(s) associated therewith are as follows:
  - a. City Engineering has no objection(s) to the requested CUP and have provided requirements and information related to the same; and,
  - b. Code Enforcement has no objection(s) to the requested CUP and have indicated there no outstanding enforcement issues associated with the Property at this time; and,
  - c. Pioneer Irrigation District has no objection to the requested CUP and has indicated the presence of an easement along the frontage of the Property. The easement's presence will likely eliminate any tree planting ability along Karcher Road, but may allow for emplacement of grass and shrubs. There is no plat associated with this matter.

**Note 1:** Any requirements noted by agencies as above iterated have been assigned to the Project entitlement recommendations portion in the “Conditions of Approval” section hereafter....

**Note 2:** The following statements are offered as possible findings and are not intended to be all inclusive or inarguable. They are simply provided to the Commission in the event that the Conditional Use Permit is approved.

6. The proposed automobile repair facility's intended location, size, design and operating characteristics will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood as:

Arguably:

- a. The existing on-site building's dimensions are compliant with BC zoning standards. Sufficient space on the Property exists to accommodate the use (obvious in that the auto repair business proposes to use [re-purpose] the afore-referenced former market building on the Property, associated parking spaces and a certain amount of code required street frontage landscaping. Storage of any vehicles under repair will be inside the building or in a bullpen area unless said vehicles are “street legal” (via condition and being currently licensed/registered) in which case a limited number may occupy part of the parking area; and,
- b. Any needful on or off-site improvements to enhance the functionality and code compliance of the automobile repair facility are, or will be, emplaced by the Applicant should the CUP be approved. No off-site development is proposed that would impede or occupy adjoining properties not owned or under the control of the Applicant; and,
- c. No change to the zoning of lots or parcels surrounding the Property may be forced or will occur by virtue of entertaining the entitlement requested in conjunction with this Application; and,
- d. Residential development is not permitted in a BC zone; the application is not for residential development -- thus, no adverse affects on livability within/upon the Property itself is anticipated...

7. The proposed automobile repair facility's intended location, design and site planning will provide a convenient and functional environment, and will be as attractive as the nature of the use and its location and setting warrants.

Arguably:

- a. As afore-stated, the automobile repair garage is proposed to be operated out of a building already existing on-site and expected to have a small area to be added in the front for office to be caused to comply with City adopted design review standards for the minor addition; and,
- b. The automobile repair garage is proposed to be readily accessible from [and adjoin] an arterial right-of-way as well as an adjoining local right-of-way; and,
- c. The Property, in association with the development thereon of an automobile repair business, will be required to be made to comply with required zoning controls (i.e., setbacks, parking lot development standards, certain landscaping, design review permit, etc.) that bear on the Property in the event the CUP is approved and a Building Permit is applied for to remodel the intended automobile repair business building; and,
- d. In the event there are substantial changes intended to the architecture or paint scheme of the building on the Property, such modifications will [have to] be evaluated through

the City's design review process (aside from the front office addition review that will be performed).

8. The automobile repair business will enhance the successful operation of the surrounding area in its basic community functions by providing an essential service to the community or region.

Arguably:

- a. There are apparently no other repair garages within close proximity of the Property; and,
- b. Nampa favors the influx of businesses to provide economic return for business owners, diversity of products and services for its citizen base and visitors to the community, and to help support its tax base to provide essential community management, recreational and emergency services.

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## RECOMMENDED CONDITIONS OF APPROVAL

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Should the Commission vote to approve the requested Conditional Use, Staff would then recommend that the Commission consider imposing the following Condition(s) of Approval on/against the Project/Applicant(s):

Generally:

1. Owner/operator/Applicant(s)/Project shall comply with all applicable development code requirements as may be imposed by City agencies appropriately involved in the review of this request (e.g., Nampa Fire, Building, Planning and Zoning and Engineering Departments, etc.) as well as outside agencies that may be involved in this matter as the CUP approval does not and shall not have the affect of abrogating requirements from those agencies...

Specifically:

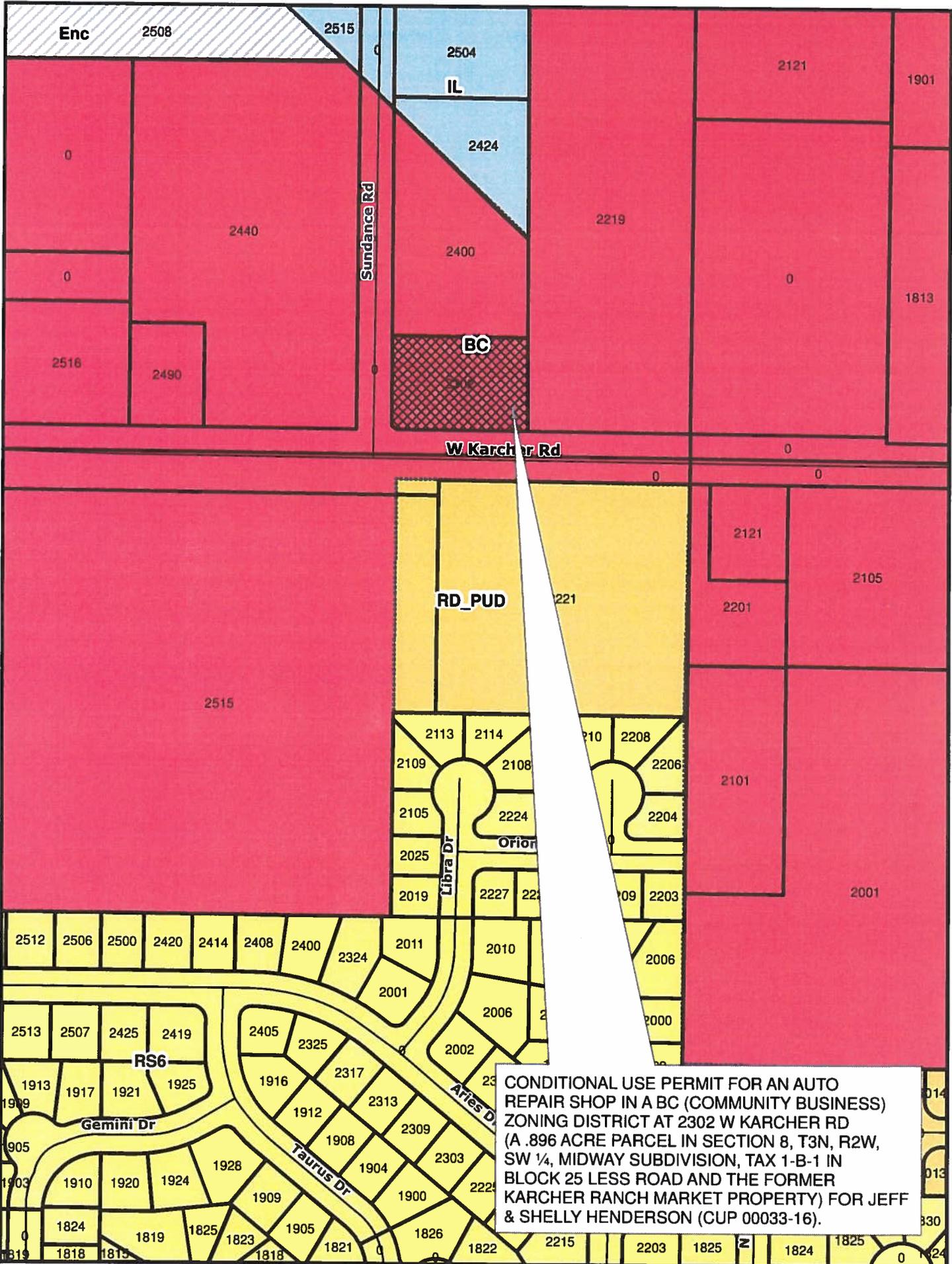
2. Owner/operator/Applicant(s)/Project shall apply for a Staff level Design Review Permit and then a Building Permit through the City to authorize construction and alteration to the existing building on the Property; and,
3. Owner/operator/Applicant(s)/Project shall comply with and abide by the following:
  - a. Requirements listed in the May 24, 2016 memorandum from the Nampa Engineering Division authored by Jim Brooks (1 page – copy hereto attached); and,
  - b. Relevant requirements listed in the June 06, 2016 letter from Pioneer Irrigation District authored by Mark Zirschky (3 pages – copy hereto attached); and,
  - <c. Any other conditions as may be imposed by the Commission>...

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## ATTACHMENTS

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- Zoning and location Vicinity Map  
(page/Exhibit 7)
- Copy of CUP Application form  
(page/Exhibit 8)
- Copy of Applicants' concept site/floor plan  
(page/Exhibit 9)
- Copy of Google Maps aerial and street view photos/images  
(pages/Exhibits 10-15)  
Copy of Comprehensive Plan Future Land Use Map section  
(page/Exhibit 16)
- Copies of any agency correspondence/citizen correspondence, etc.  
(pages/Exhibits 17+)



CONDITIONAL USE PERMIT FOR AN AUTO REPAIR SHOP IN A BC (COMMUNITY BUSINESS) ZONING DISTRICT AT 2302 W KARCHER RD (A .896 ACRE PARCEL IN SECTION 8, T3N, R2W, SW ¼, MIDWAY SUBDIVISION, TAX 1-B-1 IN BLOCK 25 LESS ROAD AND THE FORMER KARCHER RANCH MARKET PROPERTY) FOR JEFF & SHELLY HENDERSON (CUP 00033-16).



6-14-16  
Robert

# Application for Conditional Use Permit

City of Nampa, Idaho

8

This application must be filled out in detail and submitted to the office of the Planning Director for the City of Nampa, Idaho, accompanied by the appropriate fee of \$234.00 (1 acre or less) or \$463.00 (more than 1 acre).

Name of Applicant/Representative: Jeff & Shelly Henderson Phone: 208-936-8313

Address: 15596 Moonbeam way City: Caldwell State: ID Zip Code: 83607

Applicant's interest in property: (circle one) Own Rent Other Purchasing the property from current owner

Owner Name: Don Barnhill Phone: \_\_\_\_\_

Address: 2302 W Karcher Rd City: Nampa State: ID Zip Code: 83651

Address of subject property: 2302 W. Karcher Rd. Nampa, ID 83651

Is a copy of one of the following attached? (circle one) Warranty Deed Proof Of Option Earnest Money Agreement

### Subject Property Information

(Please provide the following REQUIRED DOCUMENTATION to complete the CUP):

Original Legal description of property AND a legible WORD formatted document. (Must have for final recording)  
Old or illegible title documents will need to be retyped in a WORD formatted document

OR, Subdivision \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_ Book \_\_\_\_\_ Page \_\_\_\_\_

A sketch drawing of the site and any adjacent property affected, showing all existing and proposed locations of streets, easements, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas, preliminary or final building plans and building elevations, together with any other information considered pertinent to the determination of this matter.

### Project Description

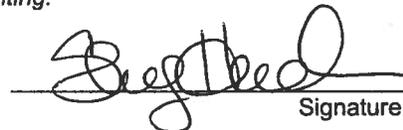
State (or attach a letter stating) the reason for the proposed Conditional Use Permit: Current RC zoning - we would like to operate an auto repair business on this property as a condition of purchasing from the seller.

Length of time requested for the Conditional Use Permit: \_\_\_\_\_ Months and/or 20 Years.

Date conditional use is expected to begin after permit is granted: 8/1/16

Please note: Conditional use permits expire if not used within six (6) months after granting.

Dated this 19 day of may, 20 16

  
Signature of applicant

### Notice to Applicant

This application will be referred to the Nampa Planning Commission for its consideration. The Planning Commission shall hold a public hearing on the application and it shall be granted or denied. Notice of public hearing must be published in the Idaho Press-Tribune 15 days prior to said hearing. Notice shall also be posted on the premises not less than 1 week prior to the hearing. Hearing notices will also be mailed to property owners or purchasers of record within 300 feet of the subject property. You will be given notice of the public hearing and should be present to answer any questions.

If a Conditional Use Permit is granted by the Planning Commission it shall not become effective until after an elapsed period of 15 days from the date of Planning Commission action. During this time any interested person may appeal the action to the City Council. You will be notified of any pending appeals.

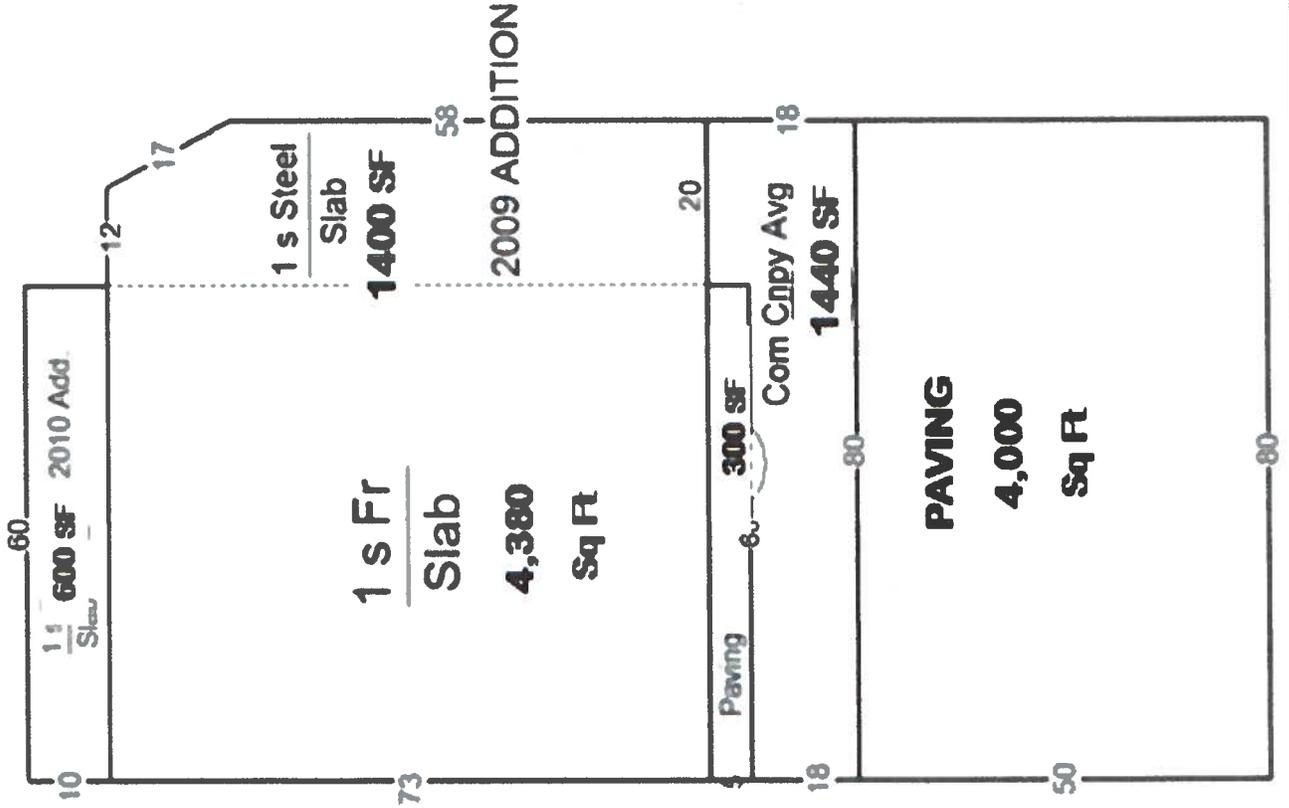
If the conditional use permit is denied by the Planning Commission, you may appeal the decision to the City Council within 15 days from the date such action is taken by the Planning Commission. At the time the Conditional use permit becomes effective you will be sent a document which constitutes an official "Conditional Use Permit". This document will enumerate the conditions attached to the issuance of the permit and state the consequences of failure to comply.

**Acceptance by the City of this application does not exempt an applicant's need to comply with all other civil, local, state or federal agency laws, covenants or standards that may appertain to the proposed Conditional Use, including, where applicable, Home Owners' Association Board approval and compliance with private Covenants, Conditions and Restrictions.**

### For Office Use Only:

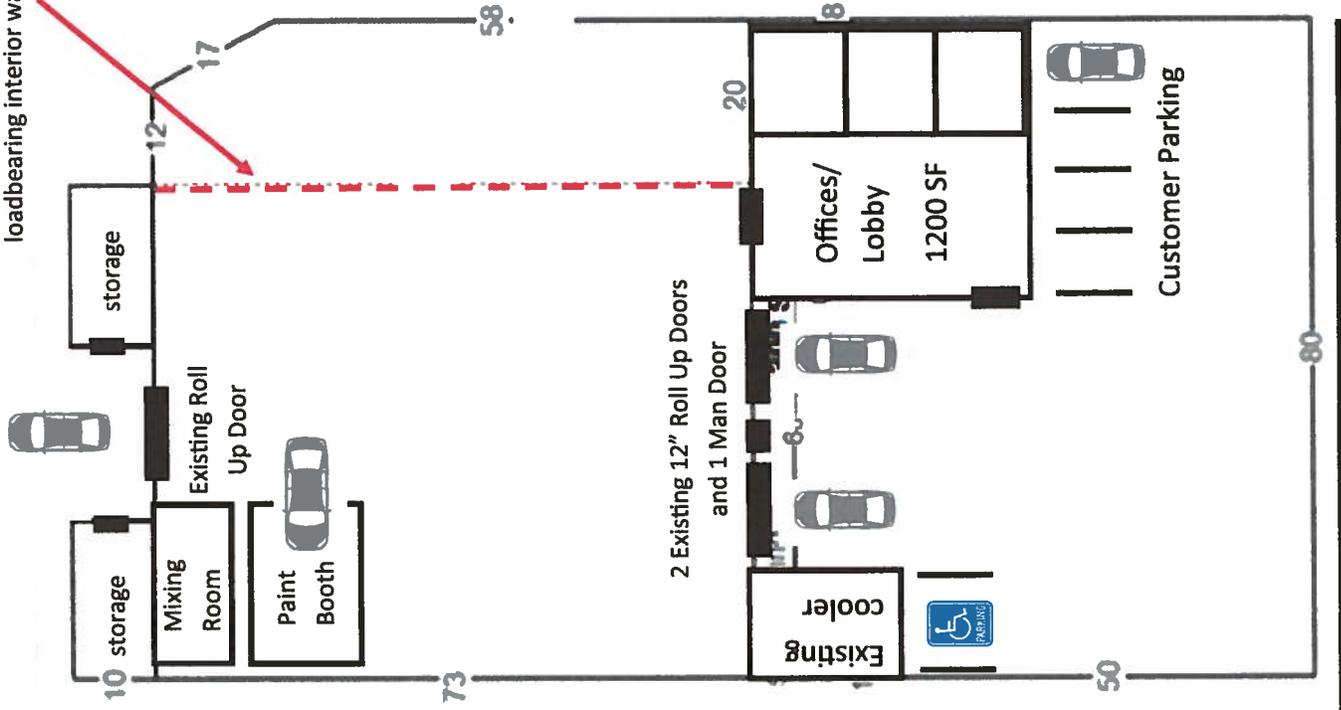
File Number: CUP 033 -296 Project Name: Auto Repair Shop

# Before



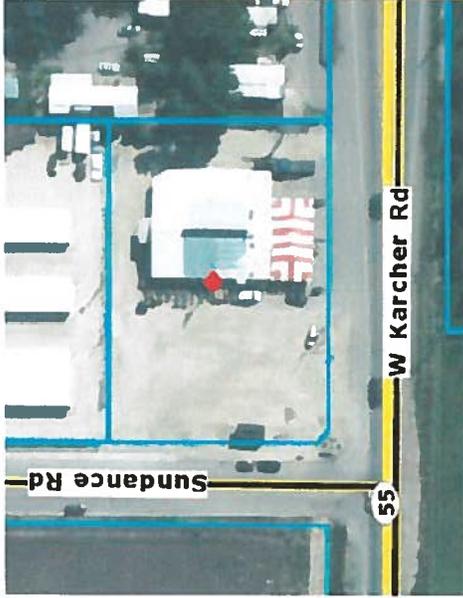
# After

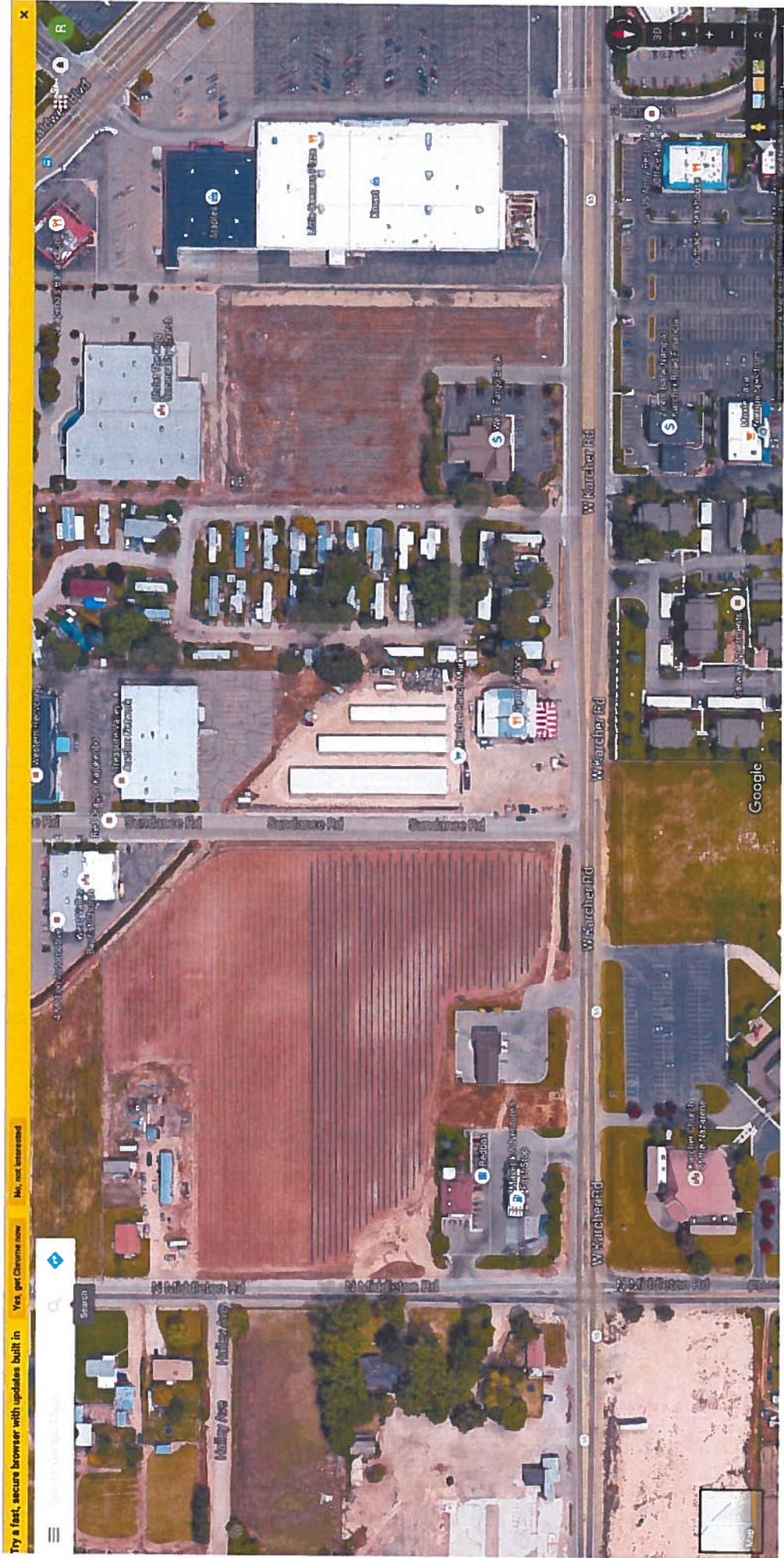
Walls are 20' span steel frame construction, will remove non-loadbearing interior walls.



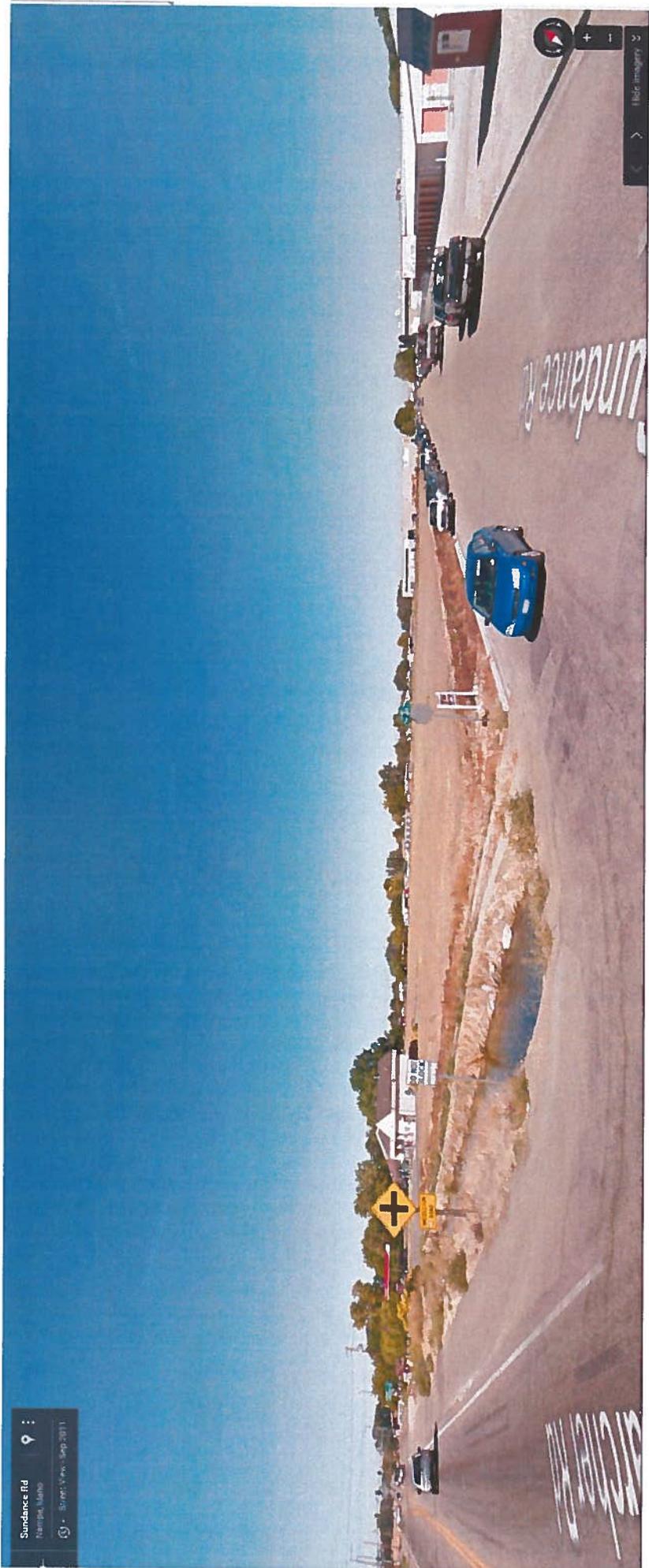
KARCHER ROAD

# Karcher Ranch Market Current



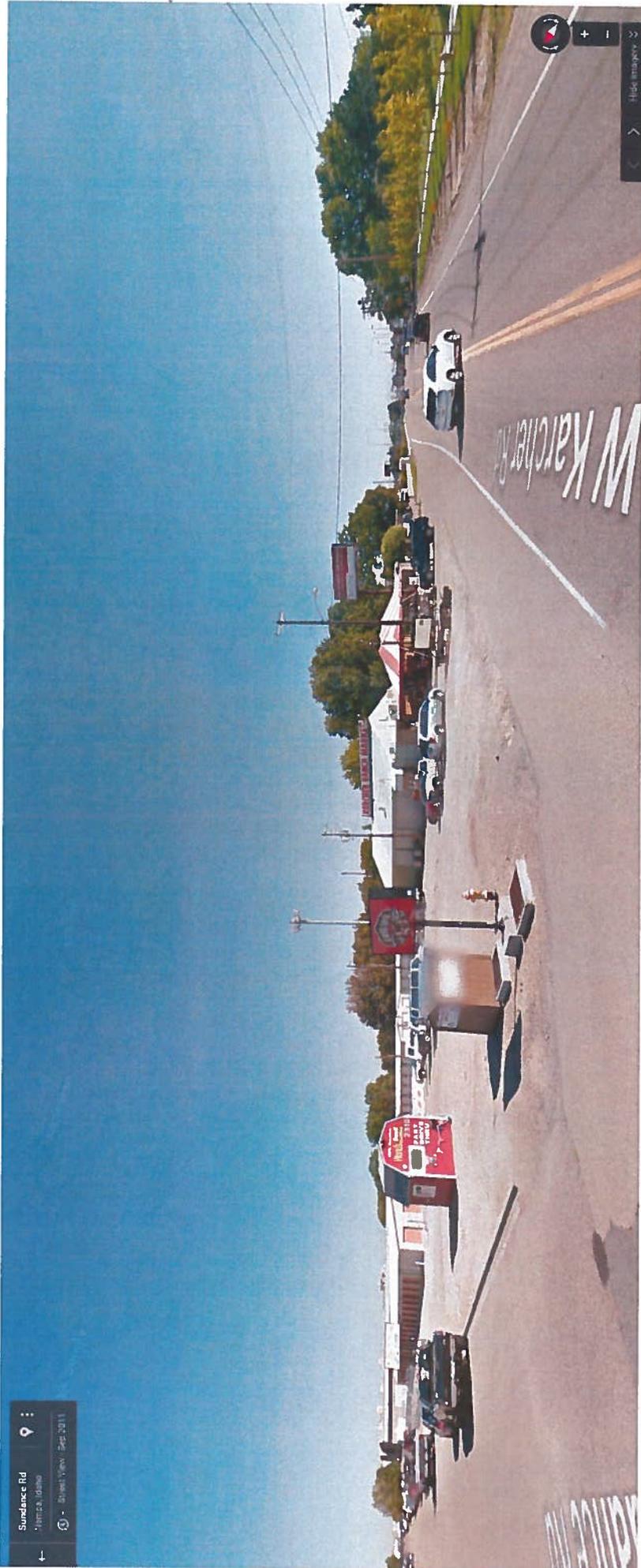


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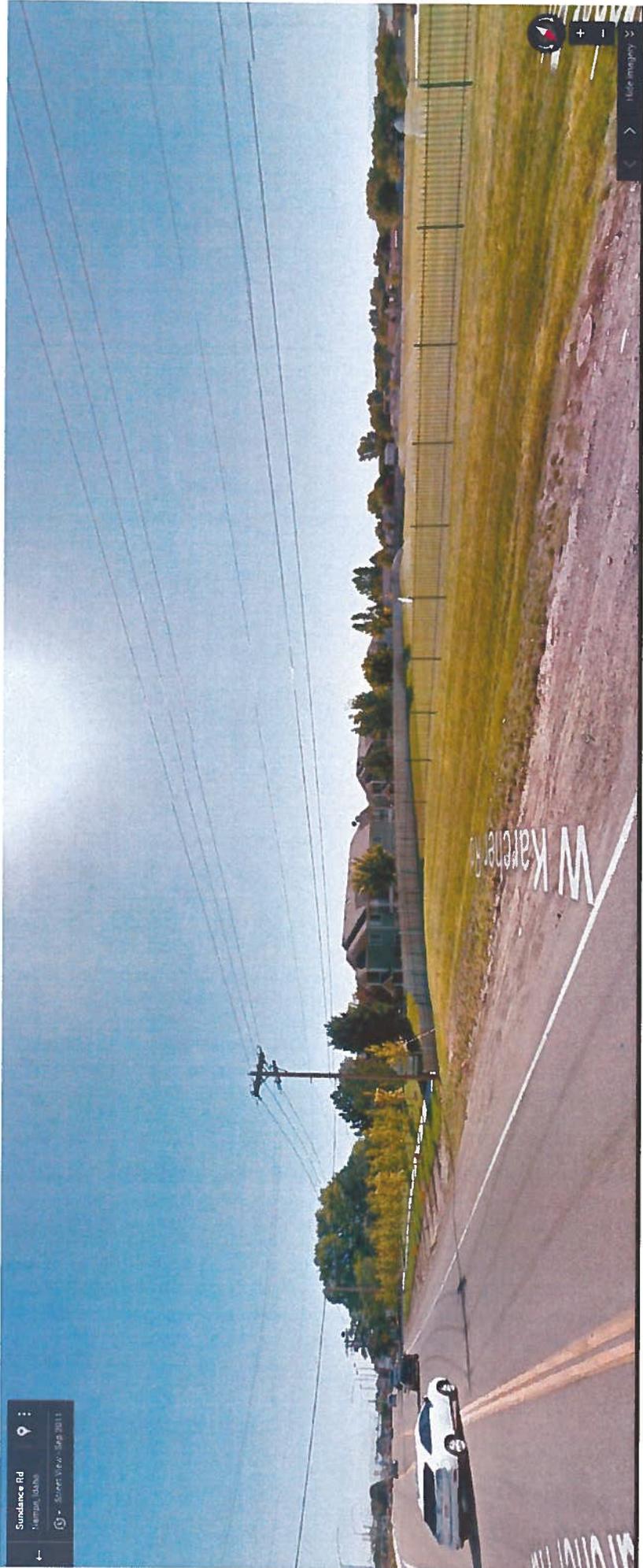


Sundance Rd  
Sundance, Utah  
© 2011 Google

Hide imagery



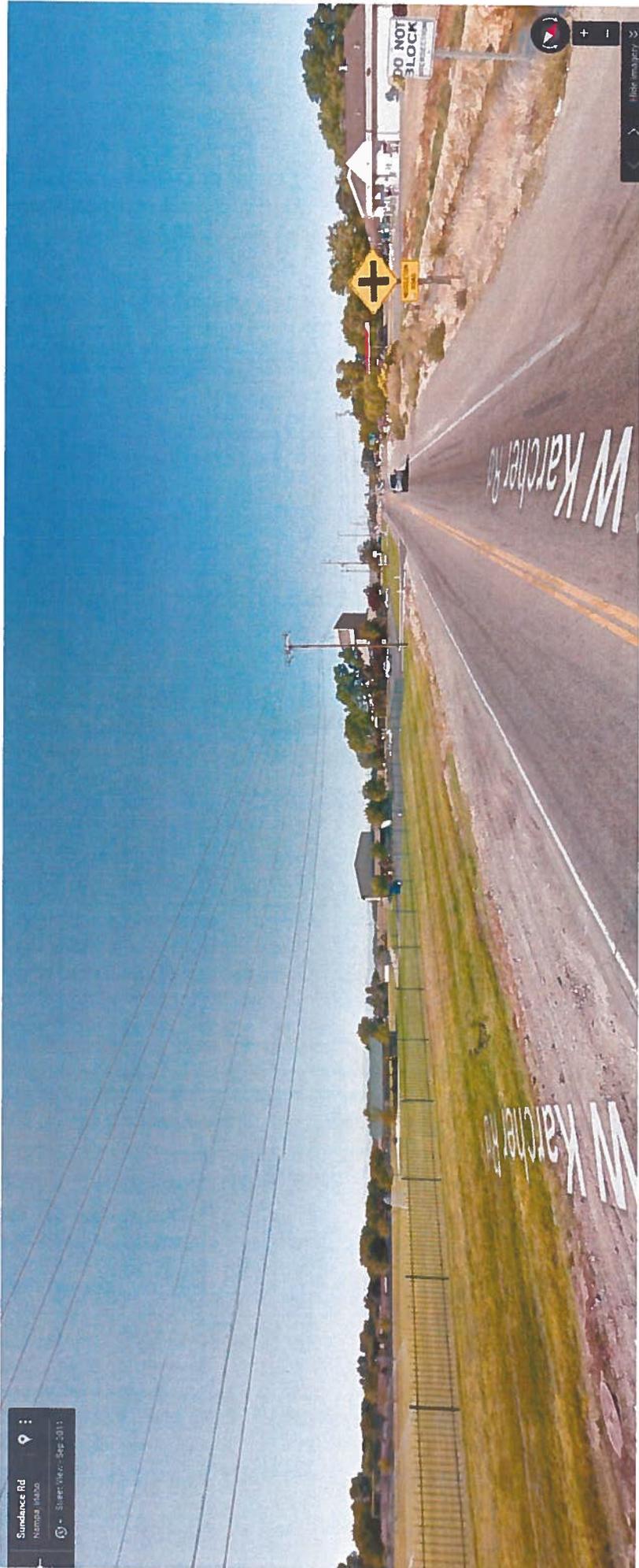
13



Sundance Rd  
Map data  
Street View (Aug 2011)

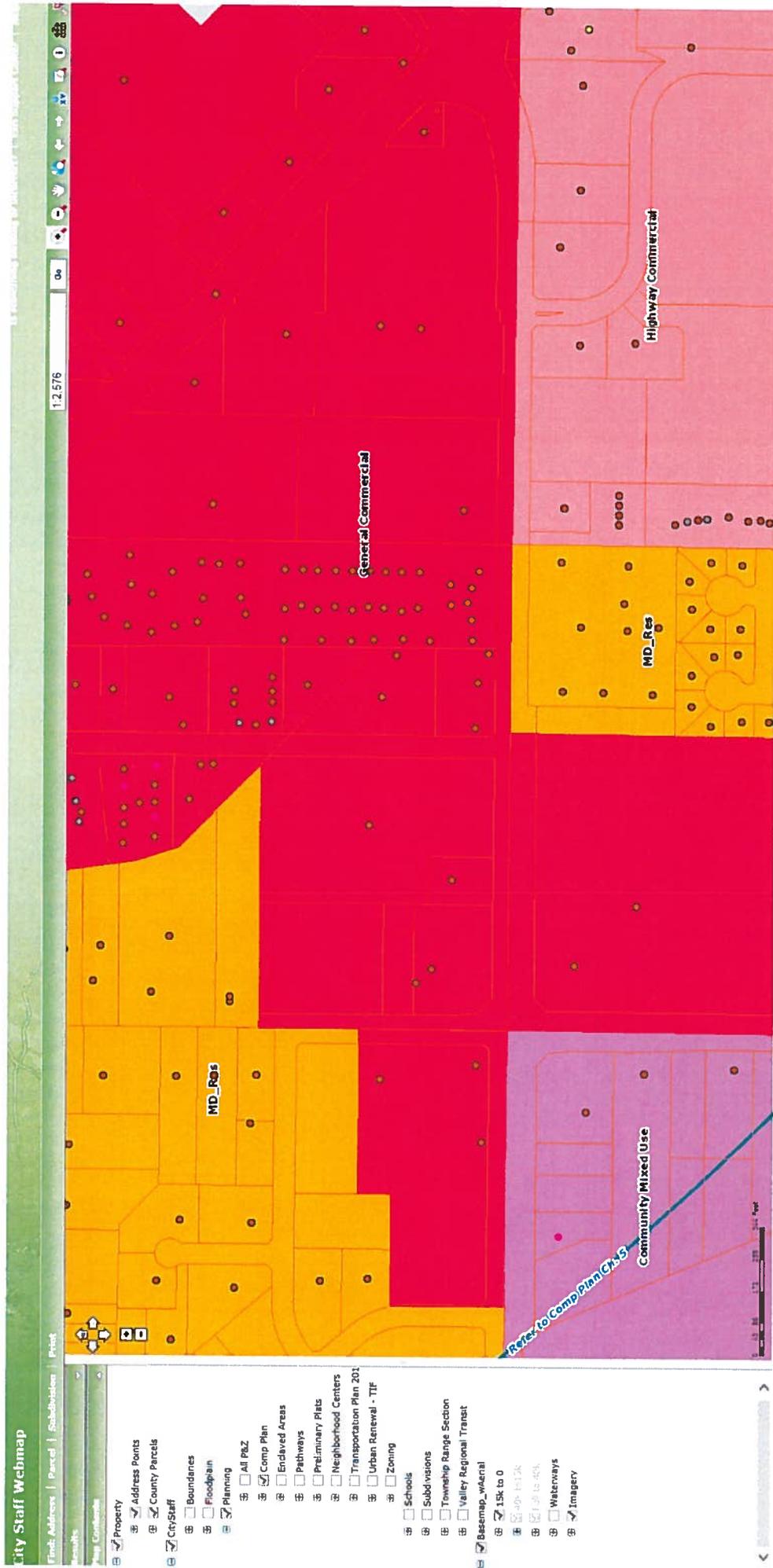
Hide map  
+ -

14



Sundance Rd  
Nampa, Idaho  
Street View - Sep 2011

15



# Memorandum

**To:** Planning and Zoning

**Cc:** Daniel Badger, P.E., Staff Engineer

**Cc:** Michael Fuss, P. E., Nampa City Public Works Director

**From:** Jim Brooks – Engineering Division

**Date:** May 24, 2016

**Rev:**

**Re:** CUP – Auto Repair

**Applicant:** Jeff and Shelly Henderson

**Address:** 2302 W. Karcher Road

**Applicant Address:** 15596 Moonbeam Way, Caldwell, Idaho 83607

**CUP00033-16 for June 14, 2016 Planning and Zoning Meeting**

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Applicant met with City Staff May 19, 2016 as part of their due diligence in regards to this property.

At the meeting the Engineering Division addressed the following items in regards to development of the site.

- Sewer-Not available at this time. Continued use of the existing septic system would need to be verified with SWDH. In future owner(s) may be required to participate in the construction of the public sewer.
- Curb, gutter and sidewalk – Owner required to complete construction of any sections not existing.
- Water-Existing main Karcher Road (ITD right-of-way). Property currently has City water service.
- Pressure Irrigation-Not available to the site at this time. Any landscaping that is required by City Code requiring irrigation will be require owner to either have installed a dedicated landscape water meter connected to the City Domestic Water System, or provide irrigation from another source acceptable to the City. If a dedicated landscape meter is made necessary, connection will be to main in Sundance.
- Storm drainage required to be retained on-site in accordance with current City Policy.

**Shellie Lopez**

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**From:** Vincent Aquino  
**Sent:** Monday, May 23, 2016 4:40 PM  
**To:** Shellie Lopez  
**Subject:** cup 033-2016

No violations at this time

Notice: All communication transmitted within the City of Nampa Email system may be a public record and may be subject to disclosure under the Idaho Public Records Act (Idaho Code 74-101 et seq.) and as such may be copied and reproduced by members of the public. In addition, archives of all City emails are generally kept for a period of two years and are also subject to monitoring and review.



# Pioneer Irrigation District

P.O. BOX 426 • CALDWELL, IDAHO 83606  
(208) 459-3617  
www.pioneerirrigation.com

June 6, 2016

City of Nampa Planning and Zoning Department  
Attn: Christopher Daly  
Email – dalyc@cityofnampa.us

**Re: CUP 00033-16 (Conditional Use Permit) Jeff and Shelly Henderson**

TO WHOM IT MAY CONCERN:

Please be advised that the irrigation delivery point for the subject property is from **Headgate 1 – 15.0 NB Lateral**. Pioneer Irrigation District's main concern is that all water rights within the District are honored, and that access to irrigation water be provided to every parcel of land.

All irrigation water distribution and drainage facilities, together with their corresponding easements and rights-of-way, must be protected and retained. It is imperative that no one disrupt the delivery and/or drainage of irrigation water to/from Pioneer patrons.

Pioneer Irrigation District's water rights are specific in the method in which the water is used; the water rights are for irrigation use only. The water may not be used for any other application including but not limited to industrial uses and watering livestock.

The easements and rights-of-way of all laterals, canals, drains and other facilities used to deliver or drain irrigation water, must be kept clear of all encroachments and obstructions at all times. No fences, structures, or other encroachments are allowed on any of the District's easements or rights-of-ways. Further, all irrigation easements and rights-of-ways must be recorded on the final plat. **The 15.0 SB Lateral has a 30 foot recorded easement along the frontage of the property.**

There are to be no encroachments within Pioneer Irrigation District easements unless specifically authorized by the District in writing as determined on a case-by-case basis.

A Land Use/Encroachment Application must be completed and submitted to Pioneer Irrigation District prior to engineering review or the drafting of any agreements permitting the reconfiguration, relocation, or modification of, encroachment upon Pioneer Irrigation District

facilities or their corresponding easements and rights-of-way. A Land Use/Encroachment Application can be obtained at Pioneer's District office.

Please be advised that NO change to/or crossing of a District facility can take place unless a License or Crossing Agreement between the District and the owner/developer of the property has been signed and recorded.

Pioneer Irrigation District will recommend disapproval of the final plat approval, until the pertinent agreement has been executed and recorded. If construction begins without the required agreement, Pioneer Irrigation District will seek judicial relief to stop the construction.

**Pioneer Irrigation District requests that plans be received by November 15<sup>th</sup>, 2016. All construction which may impact District facilities must be completed prior to the March 1<sup>st</sup>, 2017 deadline. The construction time-frame which Pioneer Irrigation District allows is November 1<sup>st</sup> of the current year to March 1<sup>st</sup> of the following year. See Pioneer Irrigation District Standards and Specifications.**

Any proposed development upstream of water users dependent upon gravity flow-based irrigation methods must be designed in a manner that protects and maintains the existing downstream irrigation facilities and methods of irrigation. All Proposed pressurized irrigation systems must be separate from the existing gravity flow based irrigation system to the extent possible (with the exceptions of diversion intake structures and return flow/bypass structures).

Please be advised the developer shall submit detailed engineering drawings of any proposed relocations or modifications of Pioneer Irrigation District facilities, **prior to preliminary plat approval**. All facility relocations or modifications are subject to the prior approval of the Superintendent and/or the Board of Directors of Pioneer Irrigation District.

If construction is not completed by March 1<sup>st</sup> in a manner which allows for adequate delivery of water, Pioneer shall perform or cause whatever work is necessary to allow adequate delivery of water to patrons. This work will be performed at the convenience and discretion of Pioneer Irrigation District. The developer/landowner shall pay the costs of this remedial work. See Pioneer's Standards and Specifications.

Any encroachment upon, or discharge of water into, a federal drain must meet the prior written approval of Lupe Rodriguez of the Bureau of Reclamation. Pioneer Irrigation District does not assume any responsibility for such an approval. Her telephone number is 383-2221. As with Pioneer Irrigation District facilities, there shall be no encroachments or obstructions constructed or placed within the federal facility rights-of-way absent the prior written permission of the Bureau of Reclamation.

Any construction impacting Waters of the United States may require a Clean Water Act Section 404 permit from the United States Army Corps of Engineers. Greg Martinez of the Army Corps of Engineers can be contacted at 345-2154.

Prior to finalization of any agreements with Pioneer Irrigation District, Pioneer must receive a copy of a Section 404 permit that has been properly executed. If the Army Corps of Engineers determine that a Section 404 permit is not necessary for the proposed project, Pioneer Irrigation District must be notified in writing by the Army Corps of Engineers that the Section 404 permit is not required.

**NOTE: This letter does not authorize any construction to commence until all the necessary agreements with Pioneer Irrigation District have been executed and recorded.**

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Mark Zirschky  
Superintendent